

Appl. No. 09/964,767
Amdt. dated August 12, 2003
Reply to Un-Numbered Paper dated September 25, 2003

REMARKS

Applicants respectfully request the Examiner to allow their application.

The undated paper of September 25, 2003 refers to an office action dated February 14, 2003. Applicants respectfully inquire as to what document the Examiner has reference. Applicants do not have any record of any office action dated February 24, 2003.

Applicants respectfully renew their prior traverses against the requirement for restriction. Attention is respectfully directed to MPEP 803 ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." (emphasis added)) Indeed, the Examiner has reviewed and acted on the merits. This demonstrates there is no impediment to examining this application.

In addition, there is no undue burden for conducting a prior art search. A number of "organic" materials were mentioned in a text book (with an index) that has been available to the present Examiner, as is known from an interview with counsel in connection with another application having a common assignee. It is also observed that the document cited in the pending Office Action lists a number of essential oils at column 3. Restricting this application to bay oil as an elected species would be a dis-service to Applicants. Applicants respectfully submit that the repeated requirement for restriction seems misplaced in the present circumstances and reconsideration and withdrawal of same is requested. Alternatively, if the restriction requirement is maintained, Applicants respectfully request re-joinder upon indication of allowable subject matter.

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It is not seen that a petition to extend time is needed for this paper. However, if an extension of time is needed, then it may be charged to our deposit account 06-1135 regarding our order number 7372/72157. **CHARGE STATEMENT:** The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficiencies only) now or hereafter relative to this application and the resulting Official Document under Rule 20, or credit any overpayment, to our Accounting/Order No. 7372/72157. This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal sheet is filed.

This document was sent by facsimile this 14th day of October 2003 to the PTO care of facsimile number 703-872-9306 as confirmed by the signature hereinbelow.

If the Examiner has any other questions, please have no hesitation in contacting the undersigned.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By: 

Kendrew H. Colton
Registration No. 30,368

Fitch, Even, Tabin & Flannery
1801 K Street, N.W.
Suite 401L
Washington, D.C. 20006-1201
Telephone No. (202) 419-7000
Facsimile No. (202) 419-7007

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